

MONTANA LEGISLATIVE HISTORY

BEST COPY
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Chapter 479 19 91

Bill H 162 S _____ Original bill & history C

H. Committee on Natural Resources

Hearing Date(s) Jan 21 ✓ C

Jan 23 ✓ C

_____ C

_____ C

Date Out Jan 24 ✓ C

S. Committee on Public Health Welfare & Safety

Hearing Date(s) Mar 15 ✓ C

Mar 23 ✓ C

_____ C

_____ C

Mar 23 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 162

1/12	INTRODUCED		
1/12	REFERRED TO NATURAL RESOURCES		
1/14	FIRST READING		
1/14	FISCAL NOTE REQUESTED		
1/17	FISCAL NOTE RECEIVED		
1/18	FISCAL NOTE PRINTED		
1/21	HEARING		
1/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/26	2ND READING PASSED	92	0
1/30	3RD READING PASSED	100	0
	TRANSMITTED TO SENATE		
1/31	FIRST READING		
1/31	REFERRED TO NATURAL RESOURCES		
3/06	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED	33	16
3/12	3RD READING CONCURRED	35	14
	RETURNED TO HOUSE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	90	1
3/18	3RD READING AMENDMENTS CONCURRED	98	0
3/23	SIGNED BY SPEAKER		
3/25	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 222		
			EFFECTIVE DATE: 10/01/91

HB 161 INTRODUCED BY GILBERT, ET AL.

AUTHORIZE DHES TO ISSUE WATER QUALITY CLEANUP
ORDERS TO LOCAL GOVERNMENT
BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

1/12	INTRODUCED		
1/12	REFERRED TO NATURAL RESOURCES		
1/14	FIRST READING		
1/18	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/26	2ND READING PASSED	78	11
1/30	3RD READING PASSED	86	14
	TRANSMITTED TO SENATE		
1/31	FIRST READING		
1/31	REFERRED TO NATURAL RESOURCES		
3/08	HEARING		
3/14	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	30	15
3/18	3RD READING CONCURRED	37	12
	RETURNED TO HOUSE WITH AMENDMENTS		
3/21	2ND READING AMENDMENTS CONCURRED	84	9
3/23	3RD READING AMENDMENTS CONCURRED	86	13
3/27	SIGNED BY SPEAKER		
3/27	SIGNED BY PRESIDENT		
3/27	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 292		
			EFFECTIVE DATE: 10/01/91

HB 162 INTRODUCED BY GILBERT, ET AL.

REQUIRE LOCAL BOARDS OF HEALTH TO
REGULATE SEPTIC AND SEWAGE SYSTEMS
BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

1/12	INTRODUCED		
1/12	REFERRED TO NATURAL RESOURCES		
1/14	FIRST READING		

1/14	FISCAL NOTE REQUESTED		
1/17	FISCAL NOTE RECEIVED		
1/18	FISCAL NOTE PRINTED		
1/21	HEARING		
1/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/26	2ND READING PASSED	83	7
1/30	3RD READING PASSED	85	15
	TRANSMITTED TO SENATE		
1/31	FIRST READING		
1/31	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/15	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/26	2ND READING CONCURRED	26	21
3/27	3RD READING CONCURRED	33	16
	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	93	2
4/09	3RD READING AMENDMENTS CONCURRED	87	11
4/16	SIGNED BY SPEAKER		
4/16	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 479		

EFFECTIVE DATE: 10/01/91

HB 163 INTRODUCED BY KASTEN, ET AL.

EXPANDING USE OF STATE LAW ENFORCEMENT
PAYMENTS TO CITY POLICE DEPARTMENTS

1/12	INTRODUCED		
1/12	REFERRED TO JUDICIARY		
1/14	FIRST READING		
1/23	HEARING		
1/23	COMMITTEE REPORT—BILL PASSED		
1/23	PLACED ON CONSENT CALENDAR		
1/25	3RD READING PASSED	96	1
	TRANSMITTED TO SENATE		
1/25	REFERRED TO LOCAL GOVERNMENT		
1/26	FIRST READING		
2/05	HEARING		
2/06	COMMITTEE REPORT—BILL CONCURRED		
2/09	2ND READING CONCURRED	48	0
2/11	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
2/23	SIGNED BY SPEAKER		
2/25	SIGNED BY PRESIDENT		
2/25	TRANSMITTED TO GOVERNOR		
2/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 60		

EFFECTIVE DATE: 10/01/91

HB 164 INTRODUCED BY COBB

EXEMPT FWP FROM DEPOSIT REQUIREMENTS ON
CERTAIN LICENSE FEES AND CHARGES
BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, & PARKS

1/14	INTRODUCED		
1/14	REFERRED TO APPROPRIATIONS		
1/14	FIRST READING		
3/08	HEARING		
3/08	COMMITTEE REPORT—BILL PASSED		
3/11	2ND READING PASSED	94	5
3/14	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
3/15	FIRST READING		
3/15	REFERRED TO FINANCE & CLAIMS		

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRPERSON BOB RANEY**, on January 21, 1991, at
3:00 pm

ROLL CALL

Members Present:

Bob Raney, Chair (D)
Mark O'Keefe, Vice-Chair (D)
Beverly Barnhart (D)
Vivian Brooke (D)
Ben Cohen (D)
Ed Dolezal (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
David Hoffman (R)
Dick Knox (R)
Bruce Measure (D)
Tom Nelson (R)
Bob Ream (D)
Jim Southworth (D)
Howard Toole (D)
Dave Wanzenried (D)

Staff Present: Gail Kuntz, Environmental Quality Council
Paul Sihler, Environmental Quality Council
Lisa Fairman, Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: **CHAIR RANEY** stated executive action on
bills heard today will occur at a later date.

HEARING ON HB 162

Presentation and Opening Statement by Sponsor:

REP. BOB GILBERT, House District 22, read HB 162. He said the
state currently can not require local governments to regulate
septic tanks. As a result many contaminants, primarily coliform
have polluted water systems. Requirements to have local
governments inspect septic tanks would protect the health and
safety of the citizens. HB 162 would permit the state to

authorize such requirements.

Proponents' Testimony:

Jim Jensen, Montana Environmental Information Center (MEIC), stated this is a small but powerful bill. The cost is minimal to implement the bill. Currently, Lewis and Clark county certifies septic installers and this has proven an effective way to protect the water supply and save money. Mr. Jensen supported HB 162.

Stan Bradshaw, Trout Unlimited, concurred with previous testimony. He said developments on 20 acres or more do not come under the scrutiny of present regulatory laws. Nearby streams often can not handle the pollutants, primarily coliform bacteria, from these developments. Mr. Bradshaw supported HB 162 as the bill addresses these 20-acre or more developments.

Joanne Chance, Montana Technical Council, supports HB 162. It will provide for consistent standards for septic systems. The bill may result in requiring more technical assistance in designing and building new septic systems. She feels this will be beneficial as it will result in higher quality systems. Ms. Chance expressed a concern that new building on and within one-hundred feet of a 100-year flood plain and in areas where ground water or bedrock is within 4' of the surface will be prohibited. She felt this will negatively impact the opportunity for development. Ms. Chance suggested the committee include a provision for variances to allow for local boards of health to consider environmental and economic impacts on a case by case basis.

Peter Frazier, Director, City-County Environmental Health Department, supports HB 162 and supports the proposal to include variances EXHIBIT 1. He presented the proposed amendment to the bill: on page 4 after line 24 add " (for the issuance of local health department permits for the operation of food establishments, as defined in 50-50-102(3))." Mr. Frazier supports HB 162 and does not want to risk passage of it if inclusion of his proposed amendment would do so.

Opponents' Testimony: none

Informational Testimony: none

Questions From Committee Members:

REP. DAVE WANZENRIED asked if local health boards can adopt more stringent regulations than state standards. REP. GILBERT responded they are looking for standardization of regulations. He feels the DHES regulations are adequate and the state standards should become the statewide standards. REP. ORVAL

ELLISON inquired if Mr. Frazier's proposed amendment, falls within the title of the bill. REP. GILBERT answered no. The first amendment, concerning variances, could be considered. REP. ELLISON expressed concern the variances would allow too large of loop holes and permit counties currently in noncompliance of regulations to continue to be in noncompliance. He asked if the variances in county plans would be approved by the state. REP. GILBERT responded the variances would be at the discretion of DHES not the county. When DHES starts regulating all counties should be in compliance. REP. BEN COHEN asked REP. GILBERT if the bill essentially requires licensing of septic systems throughout the state at the county level. He replied "license" may not be the appropriate term but rather a permit/inspection would be implemented. The permit would be for new or replacement systems not for existing systems. REP. COHEN asked how long the systems last. REP. GILBERT estimated 9 - 25 years, dependent on soils, tank, use and maintenance. REP. COHEN inquired if the drainfield rather than the tank determines the life of the septic system. REP. GILBERT responded the drainfields seem to be the major problem areas. REP. COHEN asked if the drainfields don't last for life what happens after their lifespan. REP. GILBERT answered the previous bill passed would initiate clean up if contamination occurred and a permit would be required to replace the failed system. REP. COHEN asked if a permit will be required when a part of a system is replaced. REP. GILBERT suggested the question be referred to DHES. REP. COHEN inquired if the bill would allow for alternative systems and if the language of the bill reflects this intent. REP. GILBERT assured REP. COHEN the bill is intended to include approved alternative systems. The statement of intent should be amended to reflect this and wording to address replacement parts should be added. REP. HOWARD TOOLE asked if HB 162 applies to municipal sewage systems. REP. GILBERT responded that systems already under regulation are not additionally addressed by this bill. REP. TOOLE inquired if the intent is to regulate nonmunicipal waste and sewage disposal. REP. GILBERT clarified the bill addresses systems not regulated or covered under Title 75. REP. TOOLE suggested to change language to address design, installation and maintenance. REP. GILBERT expressed concern the language changes may make it too broad. CHAIR RANEY suggested the discussion be continued during executive session.

Closing by Sponsor:

REP. GILBERT stated he looked forward to working with the committee to make changes in the bill.

HEARING ON HB 160

Presentation and Opening Statement by Sponsor:

REP. GILBERT, House District 22, stated this bill is the second major solid waste legislation introduced, REP. RANEY'S was the

MR. CHAIRMAN AND COMMITTEE MEMBERS, MY NAME IS PETE FRAZIER, ENVIRONMENTAL HEALTH DIRECTOR WITH THE CITY-COUNTY HEALTH DEPARTMENT IN CASCADE COUNTY. I HAVE BEEN WITH THIS DEPARTMENT FOR 20 YEARS.

WE SUPPORT THIS BILL AND FEEL THAT THERE HAS ALWAYS BEEN A NEED FOR THE STATE TO HAVE MINIMUM STANDARDS FOR THE PROPER DISPOSAL OF SEWAGE ON PUBLIC AND PRIVATE PROPERTY. HOWEVER, WE ARE HERE TODAY TO PROPOSE AN AMENDMENT TO THIS BILL, SINCE THE INTRODUCTION OF THIS BILL HAS OPENED ^{THE} A STATUTE DEALING WITH LOCAL BOARDS OF HEALTH POWERS AND DUTIES.

ON PAGE 4 AFTER LINE 24 WE PROPOSE THAT THE FOLLOWING BE ADDED:

"(VI) FOR THE ISSUANCE OF LOCAL HEALTH DEPARTMENT PERMITS FOR THE OPERATION OF FOOD ESTABLISHMENTS, AS DEFINED IN 50-50-102(3)."

CURRENTLY ALL FOOD ESTABLISHMENTS THROUGHOUT MONTANA ARE REQUIRED TO HAVE A STATE HEALTH DEPARTMENT FOOD PURVEYOR LICENSE, IN ORDER TO OPERATE THE ESTABLISHMENT. WE HAVE FOUND OVER THE YEARS THAT IF IT BECOMES NECESSARY TO REVOKE A STATE HEALTH DEPARTMENT LICENSE AND CLOSE AN ESTABLISHMENT, DUE TO SERIOUS PUBLIC HEALTH REGULATION VIOLATIONS, IT HAS BEEN A TIME CONSUMING PROCESS GOING THROUGH THE STATE HEALTH DEPARTMENT LEGAL DIVISION'S CLOSURE PROCESS THAT THEY ARE REQUIRED TO FOLLOW. FOR MANY YEARS WE HAVE HAD A CITY OF GREAT FALLS ORDINANCE REQUIRING A HEALTH DEPARTMENT PERMIT TO OPERATE A FOOD ESTABLISHMENT WITHIN THE CITY LIMITS. WE HAVE ONLY USED THIS ORDINANCE AS A LAST RESORT, BUT, WHEN ABSOLUTELY NECESSARY FOR THE PROTECTION OF THE PUBLIC HEALTH, IT HAS BEEN AN EXTREMELY USEFUL PUBLIC HEALTH ENFORCEMENT TOOL, SINCE, AFTER DUE PROCESS AND OPPORTUNITY FOR HEARING, WE CAN PULL THE PERMIT AND CLOSE THE ESTABLISHMENT. HOWEVER, WE DO NOT HAVE STATUTORY AUTHORITY TO INSTITUTE A SIMILAR PERMIT SYSTEM IN THE AREAS OF CASCADE COUNTY OUTSIDE THE CITY LIMITS OF GREAT FALLS, SINCE NEITHER THE COUNTY COMMISSIONERS OR THE LOCAL BOARD OF HEALTH HAVE THE AUTHORITY TO ADOPT SUCH AN ORDINANCE OR RULE. THE AMENDMENT I PROPOSED WOULD GIVE LOCAL BOARDS OF HEALTH THE AUTHORITY TO ADOPT THIS USEFUL PUBLIC HEALTH PREVENTION TOOL, IF THEY SO DESIRED.

YOUR CONSIDERATION AND ADOPTION OF THIS AMENDMENT WOULD BE DEEPLY APPRECIATED.

THANK YOU.

EXHIBIT 1
DATE 1-21-91
HB 162

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE Jan 21, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

CS05NATRES.MAN

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. 162Bd of Health
Septic SystemDATE 1-21-91SPONSOR(S) Gilbert

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Stan Brookshaw	Tripout Unlimited	162		✓
Pete Frazier	City - Co. Health Great Falls	162		✓
Ed Platt	Park Co.	162		✓
Tony GROVER	DHE S	160		✓
Joanne Chance, PE	MT Tel. Council	162		✓
Jim Jensen	MEIC	162		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Amendments, Discussion, and Votes:

REP. O'KEEFE moved amendments by REP. RANEY be discussed. REP. RANEY explained the amendments clarify definition of recycled materials and add use of computers to reduce paper. EXHIBIT 10. REP. RANEY stated various people gave suggested amendments to REP. RANEY and REP. GILBERT. The amendments before the committee are those that REP. RANEY and REP. GILBERT agreed upon. Motion to accept the amendments carried.

REP. O'KEEFE presented an additional amendment. On page 4, line 8 after subsection 2, he suggested to include a subsection 3 that would take language from page 7 line 25 through page 8 line 1. REP. O'KEEFE agreed with the testimony that a review mechanism for the state recycling and reduction plan is needed. REP. O'KEEFE moved that amendment be added and asked if staffer, Paul Sihler, would draft the amendment. REP. GILBERT agreed with the amendment. He added that renumbering of subsequent sections would also be needed. The motion to adopt the amendment that will be prepared by Mr. Sihler carried.

REP. COHEN commented he heard that the way Flathead County was going to accomplish a 25% volume reduction was to compact garbage better. He hoped this was not the intent of the bill. REP. COHEN suggested an amendment. On page 7 line 9 to include the word "reducing". The term could be added at end of line 8 or beginning of line 9. REP. RANEY commented the amendment fits well with the intent of the bill. REP. GILBERT stated he felt the point is covered in the statement of intent but he is agreeable to the amendment if it helps to further clarify the bill. REP. COHEN moved the amendment. The motion carried.

Recommendation and Vote:

REP. REAM MOVED HB 160 AS AMENDED DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 162

Motion:

REP. REAM MOVED HB 162 DO PASS.

Discussion:

REP. GILBERT proposed an amendment to HB 162. EXHIBIT 11. He asked Steve Pilcher to comment on the need for the amendment. Because Mr. Pilcher was not present, Steve Balewick responded. He said this amendment clarifies that DHES will provide variances in floodplains and other cases. DHES has no objection to amendment as it is proposed. The Department, with EQC, is developing one set of regulations that clearly explain the

standards for onsite sewage disposal in Montana. The regulations will include alternative systems along with the guidelines for standard systems currently found in Bulletin 332. Current subdivision regulations allow for variances dealing with flood plains, and deviation requests allowing alternative systems. He proposes a similar system be included for the rules they will be adopting.

Amendments, Discussion, and Votes:

REP. GILBERT moved to adopt the amendment. The motion carried unanimously.

Discussion:

REP. O'KEEFE asked REP. GILBERT to clarify his previous statement concerning page 3, lines 6 and 7. He asked if his intent was to make the state standards the only standards and not allow counties to have more stringent standards. REP. GILBERT said he did originally state that but in closer examination, counties can have more stringent standards. He would prefer counties to stay with the state standards as this will standardize the process. REP. RANEY added the counties probably would not adopt more stringent standards but the potential is there. REP. GILBERT would like to go ahead with the bill. If people are abusing the statement of intent by making standards too strict then the legislature can amend the bill. REP. O'KEEFE stated he is comfortable with the present bill and wants to ensure that counties can adopt more stringent standards to meet their individual needs.

Recommendation and Vote:

REP. ELLISON MOVED HB 162 DO PASS AS AMENDED. Motion carried unanimously.

ADJOURNMENT

Adjournment: 5:30 pm



BOB RANEY, Chair



LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE Jan. 23, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

11.7
1-24-11
JDB

HOUSE STANDING COMMITTEE REPORT

January 24, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 162 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Raney, Chairman

And, that such amendments read:

1. Statement of Intent, line 20.

Following: "buildings."

Insert: "The rules must include a procedure for the consideration of requests for variances from the minimum standards and for a variance to be granted if warranted, as determined by the department of health and environmental sciences. The variance procedure must be administered solely by the department of health and environmental sciences.

EXHIBIT 11
DATE 1-23-91
HB 162

Amendments to House Bill No. 162
First Reading Copy

Requested by Rep. Gilbert
For the Committee on Natural Resources

Prepared by Gail Kuntz
January 23, 1991

1. Statement of Intent, line 20.

Following: "buildings."

Insert: "The rules must include a procedure for the consideration of requests for variances from the minimum standards and for a variance to be granted if warranted, as determined by the department of health and environmental sciences. The variance procedure must be administered solely by the department of health and environmental sciences."

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Chairman Dorothy Eck, on March 15, 1991, at
3:30 p.m.

ROLL CALL

Members Present:

Dorothy Eck, Chairman (D)
Eve Franklin, Vice Chairman (D)
James Burnett (R)
Thomas Hager (R)
Judy Jacobson (D)
Bob Pipinich (D)
David Rye (R)
Thomas Towe (D)

Members Excused: None.

Staff Present: Tom Gomez (Legislative Council)
Christine Mangiantini (Committee Secretary)

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON HOUSE BILL 162

Presentation and Opening Statement by Sponsor:

Representative Bob Gilbert opened by saying this bill will require the Department of Health and Environmental Sciences (DHES) to establish minimum standards for the control of sewage from private and public buildings. It will also require local boards of health to adopt regulations that are no less stringent than the state standards and hopefully no more stringent for the control and disposal of sewage. In Montana, there is no regulation of septic systems. A recent series of water well tests performed by the Agricultural Extension Service in northeastern Montana found over 60 percent were contaminated by sewage related products. Hopefully, in the future the state will have rules for all new installations and all re-installations. This may also prompt DHES to research new types of septic systems instead of just drain field systems. Representative Gilbert passed to the committee Exhibit #1, a proposed amendment drafted by the Environmental Quality Council. As the bill is currently drafted, all variances would have to be approved by DHES. That is physically impossible. The new language will allow local boards of health to investigate variances.

Proponents' Testimony:

The first witness was Steve Pilcher, administrator for the Environmental Sciences division, DHES. He said there are some counties within Montana that do not have a program to control the installation and replacement of subsurface disposal systems. This bill would allow DHES to adopt rules to ensure that all installations met certain minimum public health and environmental protection standards. He said Mr. Rick Duncan from DHES was available to answer any questions.

The second witness was Howard Reid, representing the Lewis & Clark City/County Health Department. He said they support the bill and recognized the need for statewide standards. The proposed amendment has some problems. In effect, the appeal process would be allowed through DHES. Local health departments have more stringent standards than the minimum standards provided by the state. That language needs to be stricken from the proposed amendment.

The third witness was Linda Lee, representing the Montana Audubon Legislative Fund. She said on behalf of the 2,500 members across Montana, they urged passage of the bill.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Jacobson asked Mr. Reid if he supported the amendment offered by Representative Gilbert.

Mr. Reid said the amendment would make variance procedure activities a responsibility of the local boards of health. It also allows for a citizen to appeal a local boards variance which would in effect mean if a local board denies a variance the individual has the right to appeal to DHES. This will subvert local health department regulations that are more stringent than minimum requirements set by DHES.

Chairman Eck asked about the 60 percent well contamination.

Representative Gilbert said he thought it was actually 67 percent. They have 25-30 year old septic systems that need replaced or systems that have not been inspected that are improperly installed. Most residents did not even know their wells were infected.

Senator Burnett asked about the 67 percent calculation.

Representative Gilbert said it was the percentage of wells that the Extension Service tested, in one section of northeastern Montana.

Closing by Sponsor:

Representative Gilbert closed by asking the committee to adopt his amendment. He said Montanans have rights and if the rules do not allow for appealing their cases, then we have taken their rights away.

HEARING ON HOUSE BILL 239Presentation and Opening Statement by Sponsor:

Representative Bob Raney opened by saying this bill is the Infectious Waste Management Act, a product of the Environmental Quality Council (EQC). This had more public participation than any bill drafted by EQC. The nation has recognized numerous special wastes such as oil, batteries and tires. During the last four or five years infectious waste has come to the forefront. It needs special handling. He said they worked with industry and their recommendations were implemented into the bill. EQC was the public forum for establishing the standards that are reflected in the bill. The standards are designed to protect the public health, safety, welfare and environment. He turned to page 2, section 3 (4) and read the definition of infectious waste. It is quite restrictive. Four elements are necessary to connotate infectious waste. Generators of infectious waste are required to separate it from other waste at the source of origin and store it in proper containers in a secure area until it is rendered non-infectious by methods such as incineration, chemical application or steam. Liquid waste may be disposed of in sewage and septic systems when proper criteria are met. The fiscal note denotes the highest possible cost of implementation. It will probably be less than that amount.

Proponents' Testimony:

The first witness was Nancy Oberg, representing the Montana Solid Waste Contractors organization. See Exhibit #2 for a copy of her testimony.

The second witness was Roger Tippy, representing the Montana Dental Association. This legislation, on the national scene, came from media stories such as syringes washing ashore on beaches. Locally, Representative Raney had a situation in his district just before the 1989 session when the incinerator in Livingston was considering burning large quantities of hospital waste from out-of-state sources. The people in the community were upset. Two years ago a similar bill was introduced that was patterned after east coast states' regulations, it proved unworkable for Montana. They had extensive permit systems through one state agency and were requiring all generators to receive annual permits or risk being shut down. In some states the annual fee was \$800.00 per year. One problem encountered was the exemption of small generators.

Ex. 1a
3-15-91
HB 162

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of March, 1991.

Name: Howard Reich

Address: 6001 Birdseye Rd

Helena, MT 59601

Telephone Number: 447-8352 wk 443-3245 Hm

Representing whom?

Law & Clark County Health Dept.

Appearing on which proposal?

HB 162

Do you: Support? ☒

Amend? ☐

Oppose? ☐

Comments:

Amending language of 3rd reading version
allows appeal of local variance to DHEC.
Request that language be struck

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Ex. 16
3-15-91
HB 162

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15th day of March, 1991.

Name: Linda Lee

Address: 529 3rd Helen

Telephone Number: 442-3360

Representing whom?

Montana Audubon Legislative Fund

Appearing on which proposal?

HB 162

Do you: Support? X Amend? Oppose?

Comments:

It's necessary!

ROLL CALL

PUBLIC HEALTH, WELFARE COMMITTEE
AND SAFETY

Date March 15

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	X		
SENATOR FRANKLIN	X		
SENATOR HAGER	X		
SENATOR JACOBSON	X		
SENATOR PIPINICH	X		
SENATOR RYE	X		
SENATOR TOWE	X		
SENATOR ECK	X		

Each day attach to minutes.

DATE: 2/15/91

COMMITTEE ON Public Health, Welfare & Safety

AB 162, 239, 942, HJR 16

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

SENATE HEALTH & WELFARE

EXHIBIT NO. 1

Amendments to House Bill No. 162 DATE 3/15
Third Reading Copy

H BILL NO. 162

Requested by Rep. Gilbert
For the Senate Committee on Public Health, Welfare and Safety

Prepared by Gail Kuntz
February 5, 1991

1. Page 1, line 24 through page 2, line 2.

Following: "BY"

Strike: remainder of line 24 through "SCIENCES." on line 2, page 2

Insert: "local boards of health. The rules must also provide a procedure for persons to appeal a local board of health's decision on a variance to the department of health and environmental sciences."

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

Call to Order: By Senator Dorothy Eck, on March 23, 1991, at
8:35 A.M.

ROLL CALL

Members Present:

Dorothy Eck, Chairman (D)
Eve Franklin, Vice Chairman (D)
James Burnett (R)
Thomas Hager (R)
Judy Jacobson (D)
Bob Pipinich (D)
David Rye (R)
Thomas Towe (D)

Members Excused: None

Staff Present: Tom Gomez (Legislative Council).
Christine Mangiantini (Committee Secretary)

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: None

EXECUTIVE ACTION ON HOUSE BILL 162

Discussion:

Chairman Eck advised there were two sets of amendments on HB 162, and she requested Tom Gomez, Legislative Research Staff, to explain them. Both sets of amendments were requested by Representative Bob Gilbert and prepared by Gail Kuntz from the Environmental Quality Council. Mr. Gomez stated the amendments are needed to correct a legal problem wherein there is no statutory authority for the Department of Health and Environmental Sciences to hear appeals on local government decisions regarding variances from sewage system standards.

Amendments, Discussion, and Votes:

Senator Towe made a motion that the amendments on HB 162 be adopted. Those in favor - 8; opposed - 0. MOTION CARRIED.

Recommendation and Vote:

Senator Towe made a motion that HB 162 BE CONCURRED IN AS AMENDED. Those in favor - 6; opposed - 2 (Burnett, Rye). MOTION CARRIED.

Senator Yellowtail will carry HB 162 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 239

Discussion:

Chairman Eck advised that the proposed amendment was suggested by the city of Billings. Following lengthy discussion, Senator Towe suggested the amendment be changed to read "Unless local sewer authorities adopt a stricter requirement, liquid .."

Amendments, Discussion, and Votes:

Senator Towe moved the amendment to HB 239 be adopted. Those in favor - 5; opposed - 3 (Burnett, Hager, Rye). MOTION CARRIED.

Recommendation and Vote:

Senator Towe made a motion that HB 239 BE CONCURRED IN AS AMENDED. Those in favor - 5; opposed - 3 (Burnett, Hager, Rye).

Senator Yellowtail will carry HB 239 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 930

Discussion:

JIM SMITH, Mental Health Association, stated that he believed there was a little movement between the parties when Senator Franklin spoke with them regarding guardianship proceedings, and making them more expeditious. He suggested that an amendment might be considered to make it acceptable to all parties. Sen. Towe asked if Mr. Smith meant an expedited type of guardianship, adding that there is a guardianship procedure in the law right now which would address non-hospital patients. That law could possibly be expanded to apply to hospital situations. Senator Towe suggested that section of law be studied to see if expanding it would be advisable. He added that this is a perennial argument, and although Archie McPhail is concerned about this issue, Senator Towe feels he is bucking an uphill battle. It is his opinion it is not that big a problem because if a particular person does not want a particular drug, it should not be forced on them.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 23, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 162 (third reading copy -- blue), respectfully report that House Bill No. 162 be amended and as so amended be concurred in:

1. Title, line 12.

Following: "BUILDINGS;"

Insert: "PROVIDING FOR APPEAL OF A LOCAL VARIANCE DECISION TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES;"

2. Page 1, line 24 through page 2, line 2.

Following: "BY"

Strike: remainder of line 24 through "SCIENCES." on line 2, page 2

Insert: "local boards of health. The rules must also provide a procedure for persons to appeal a local board of health's decision on a variance to the department of health and environmental sciences."

3. Page 2, line 16.

Following: "wastes"

Insert: "-- variance procedure --- appeals"

Following: "."

Insert: "(1)"

4. Page 2, line 17.

Following: "wastes."

Insert: "(2)"

5. Page 2, line 19.

Following: "buildings"

Insert: ", including standards and procedures for variances from the requirements"

6. Page 2.

Following: line 19

Insert: "(3) An applicant for a variance from minimum requirements adopted by a local board of health pursuant to 50-2-116(1)(i) may appeal the local board of health's final decision to the department by submitting a written request for a hearing

within 30 days after the decision. The written request must describe the activity for which the variance is requested, include copies of all documents submitted to the local board of health in support of the variance, and specify the reasons for the appeal of the local board of health's final decision.

(4) The department shall conduct a hearing on the request pursuant to Title 2, chapter 4, part 6. Within 30 days after the hearing, the department shall grant, conditionally grant, or deny the variance. The department shall base its decision on the board's standards for a variance.

(5) A decision of the department pursuant to subsection (4) is appealable to district court under the provisions of Title 2, chapter 4, part 7."

7. Page 3, line 16.

Following: "4."

Insert: "The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of health and environmental sciences and must provide for appeal of variance decisions to the department as required by 75-5-305."

Signed: _____

Dorothy Eck
Dorothy Eck, Chairman

MM 3-23-91
Cmd. Coord.

SB 3-23-91 11:30
Sec. of Senate

Amendments to House Bill No. 162
Third Reading CopyRequested by Rep. Gilbert
For the Committee on Public Health, Welfare and SafetyPrepared by Gail Kuntz
March 21, 1991

1. Title, line 12.

Following: "BUILDINGS;"

Insert: "PROVIDING FOR APPEAL OF A LOCAL VARIANCE DECISION TO
THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES;"

2. Page 2, line 16.

Following: "wastes"

Insert: "-- variance procedure -- appeals"

Following: "."

Insert: "(1)"

3. Page 2, line 17.

Following: "wastes."

Insert: "(2)"

4. Page 2, line 19.

Following: "buildings"Insert: ", including standards and procedures for variances from
the requirements"5. Page ~~2~~ 2

Following: line 19

Insert: "(3) An applicant for a variance from minimum
requirements adopted by a local board of health pursuant to 50-2-
116(1)(i) may appeal the local board of health's final decision
to the department by submitting a written request for a hearing
within 30 days after the decision. The written request must
describe the activity for which the variance is requested,
include copies of all documents submitted to the local board of
health in support of the variance, and specify the reasons for
the appeal of the local board of health's final decision.(4) The department shall conduct a hearing on the request
pursuant to Title 2, chapter 4, part 6. Within 30 days after the
hearing, the department shall grant, conditionally grant, or deny
the variance. The department shall base its decision on the
board's standards for a variance.(5) A decision of the department pursuant to subsection (4)
is appealable to district court under the provisions of Title 2,
chapter 4, part 7."

6. Page 3, line 16.

Following: "4."Insert: "The regulations must describe standards for granting
variances from the minimum requirements that are identical to
standards promulgated by the board of health and environmental

sciences and must provide for appeal of variance decisions to the department as required by 75-5-305."

SENATE HEALTH & WELFARE

EXHIBIT NO. 1

DATE 3/15/91

H B/L NO. 162

Amendments to House Bill No. 162
Third Reading Copy

Requested by Rep. Gilbert
For the Senate Committee on Public Health, Welfare and Safety

Prepared by Gail Kuntz
February 5, 1991

1. Page 1, line 24 through page 2, line 2.

Following: "BY"

Strike: remainder of line 24 through "SCIENCES." on line 2, page 2

Insert: "local boards of health. The rules must also provide a procedure for persons to appeal a local board of health's decision on a variance to the department of health and environmental sciences."

ROLL CALL

PUBLIC HEALTH, WELFARE
AND SAFETY

COMMITTEE

Date 3/23/91

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	✓		
SENATOR FRANKLIN	✓		
SENATOR HAGER	✓		
SENATOR JACOBSON	✓		
SENATOR PIPINICH	✓		
SENATOR RYE	✓		
SENATOR TOWE	✓		
SENATOR ECK	✓		

Each day attach to minutes.

ROLL CALL VOTE

Passed

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 Bill No. H 162 Time 8:42 a.m.

NAME	YES	NO
SENATOR BURNETT	✓	
SENATOR FRANKLIN	✓	
SENATOR HAGER	✓	
SENATOR JACOBSON	✓	
SENATOR PIPINICH	✓	
SENATOR RYE	✓	
SENATOR TOWE	✓	
SENATOR ECK	✓	

Secretary _____

Chairman _____

Motion: Towe moves E-1 & E-2.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 3/23 Bill No. 162 Time 8:45

NAME	YES	NO
SENATOR BURNETT		✓
SENATOR FRANKLIN	✓	
SENATOR HAGER	✓	
SENATOR JACOBSON	✓	
SENATOR PIPINICH	✓	
SENATOR RYE		✓
SENATOR TOWE	✓	
SENATOR ECK	✓	

Secretary

Chairman

Motion: Towe moves concur. as amended.